

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:04CR342
)	
v.)	REPORT AND RECOMMENDATION
)	And
RANDALL S. PIKE and)	
CHARLES S. SWIFT,)	ORDER
)	
Defendant.)	

At the conclusion of the hearing on January 4, 2005, on defendant Swift's motion to suppress (Filing No. 39), Swift's motion to dismiss or strike (Filing No. 37) and Swift's motion to sever (Filing No. 35) and Pike's motion to sever (filing No. 33) and Pike's motion to strike (Filing No. 31), I stated my conclusions on the record and my decision to recommend that Swift's motions to suppress and to dismiss or strike be denied, that Pike's motion to strike was denied, and that Swift's and Pike's motions to sever were granted. In accordance with that announcement,

IT IS RECOMMENDED to the Honorable Joseph F. Bataillon, Chief Judge, that Swift's motion to suppress (Filing No. 39) and Swift's motion to dismiss or strike (Filing No. 37), be denied in all respects.

FURTHER, IT IS ORDERED:

1. Pike's motion to strike (Filing No. 31) is denied.
2. Pike's motion to sever (Filing No. 33) and Swift's motion to sever (Filing No. 35) are granted. The Indictment against Pike and Swift shall be tried at separate trials.
3. The clerk shall cause an expedited transcript of the hearing to be prepared and filed.
4. Pursuant to NECrimR 57.3 and NECrimR 57.2 any objection or appeal to this Report and Recommendation and Order shall be filed with the Clerk of the Court within ten (10) days after the transcript is available to counsel for reading in the clerk's office. Failure to timely object may constitute a waiver of any such objection or appeal. The brief in support of any objection or appeal shall be filed at the time of filing such objection or appeal. Failure to file a brief in support of any objection may be deemed an abandonment of the objection or appeal.

Dated this 4th day of January, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge